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Notice of Allowability

Application No.

10/797,282

Applicant(s)

KIRCHHOFF ET AL.

Examiner

Michael C. Astorino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to interview summary April 2, 2007.
2. ☒ The allowed claim(s) is/are 14, 16-28 and 49-61.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20070415</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Todd Oberdick on April 2, 2007.

The application has been amended as follows:

14. (currently amended) A system for facilitating control of body weight, said system comprising:

a computer;

~~software executing on said computer for receiving~~ said computer stores a software program having instructions causing the computer to receive a profile from a user, the profile including initial body weight;

~~software executing on said computer for determining~~ said computer stores a software program having instructions causing the computer to determine an initial time-based plan as a function of the profile received from the user to facilitate control of body weight;

~~software executing on said computer for selectably presenting~~ said computer stores a software program having instructions causing the computer to selectively present to the user the time-based plan for facilitating control of body weight, wherein the time-based plan comprises the following two options:

(a) a time-based structured meal plan schedule being a meal plan schedule automatically based on at least one component of the initial personal profile; and

(b) a time-based non-structured meal plan schedule being a meal plan schedule based upon food selections received from the user;

~~software executing on said computer for providing~~ said computer stores a software program having instructions causing the computer to provide the user a mechanism by which the user selects between the two options presented to the user;

~~software executing on said computer for receiving~~ said computer stores a software program having instructions causing the computer to receive an indication from the user indicative of whether the user selected the structured meal plan schedule option or the non-structured meal plan schedule option; and

~~software executing on said computer for modifying~~ said computer stores a software program having instructions causing the computer to modify the initial time-based plan, in response to the option selected by the user.

16. (currently amended) The system according to claim 14, ~~further comprising software executing on said computer for receiving~~ wherein said computer stores a software program having instructions causing the computer to receive cultural background of the user.

17. (currently amended) The system according to claim 14, ~~further comprising software executing on said computer for receiving~~ wherein said computer stores a software program having instructions causing the computer to receive at least one characteristic associated with the user.

24. (currently amended) The system according to claim 14, wherein said ~~software executing on said computer for selectably presenting~~ software program having instructions causing the computer to selectively present to the user the time-based plan for facilitating control of body weight displays the time-based plan for the user to view.

49. (currently amended) A system for forming a meal plan based on a weight control program for a participant, said system comprising:

a computer;

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~~software executing on said computer for receiving~~ said computer stores a software program having instructions causing the computer to receive an initial personal profile indicative of characteristics of the participant;

~~software executing on said computer for establishing~~ said computer stores a software program having instructions causing the computer to establish a daily food consumption goal for the participant based on the initial personal profile;

~~software executing on said computer for selectably presenting~~ said computer stores a software program having instructions causing the computer to selectably present to the participant a time-based plan for facilitating control of body weight, wherein the time-based plan comprises the following two options:

(a) a time-based structured meal plan schedule being a meal plan schedule automatically based on at least one component of the initial personal profile; and

(b) a time-based non-structured meal plan schedule being a meal plan schedule based upon food selections received from the participant;

~~software executing on said computer for providing~~ said computer stores a software program having instructions causing the computer to provide the user a mechanism by which the user selects between the two options presented to the user;

~~software executing on said computer for receiving~~ said computer stores a software program having instructions causing the computer to receive an indication from the participant indicative of whether the participant selected the structured meal plan schedule option or the non-structured meal plan schedule option;

~~software executing on said computer for forming~~ said computer stores a software program having instructions causing the computer to form, if the indication received from the participant indicates that the participant selected the structured meal plan option, a time-based meal plan schedule automatically based on at least one component of the initial personal profile, the meal plan schedule being consistent with the daily food consumption goal and utilizing foods having values associated therewith;

~~software executing on said computer for forming~~ said computer stores a software program having instructions causing the computer to form, if the indication received from the participant indicates that the participant selected the non-structured meal plan option, a time-

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based meal plan schedule based upon food selections received from the participant, the meal plan schedule being consistent with the daily food consumption goal and utilizing foods having values associated therewith; and

~~software executing on said computer for providing~~ said computer stores a software program having instructions causing the computer to provide the time-based meal plan schedule to the participant.

50. (currently amended) The system according to claim 49 wherein the meal plan schedule is alterable, and ~~further comprising wherein:~~

~~software executing on said computer for receiving~~ said computer stores a software program having instructions causing the computer to receive a modification to the alterable meal plan schedule; and

~~software executing on said computer for applying~~ said computer stores a software program having instructions causing the computer to apply the modification to the alterable meal plan schedule.

52. (currently amended) The system according to claim 49, ~~further comprising wherein:~~

~~software executing on said computer for receiving~~ said computer stores a software program having instructions causing the computer to receive an updated characteristic associated with the participant; and

~~software executing on said computer for automatically altering~~ said computer stores a software program having instructions causing the computer to automatically alter the meal plan schedule based on the updated characteristic.

61. (currently amended) The system according to claim 49, ~~further comprising wherein:~~

~~software executing on said computer for generating~~ said computer stores a software program having instructions causing the computer to generate a shopping list based on the meal plan schedule.

62 - 75. (cancelled)


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Astorino whose telephone number is 571-272-4723. The examiner can normally be reached on Monday-Friday, 8:30AM to 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MA
April 15, 2007


MAX HINDENBURG
SUPERVISOR
EXAMINER
571-273-8300